

Kentucky Tobacco Settlement Trust Corporation

Meeting Minutes

January 18, 2000

The sixth official meeting of the Kentucky Tobacco Settlement Trust Corporation was held on Tuesday, January 18, at 9:00 a.m., at the Hyatt Regency in Lexington. Scott White, Acting Chairman, called the meeting to order, and the secretary called the roll.

Members Present:

Scott White, for General A. B. Chandler; Tommy Bale; Gary Cecil; David Chappell; Marshall Coyle; Debbie Draper; John-Mark Hack, President; Jim Lacy; Senator Pendleton; Wilson Stone; Representative Thomas; and Henry West.

Others Present:

Hoppy Henton, Director, and Bob Finch, Deputy Director, USDA, Kentucky Farm Service Agency; and Lisa Thomas, Governor's Office of Agriculture Policy.

Minutes of December 14, 1999 Meeting:

The minutes of the December 14th meeting were amended to reflect the fact that Gary Cecil was in attendance at the November 18th meeting. The minutes were approved as amended.

Governor's Proposal for Expenditure of Phase I Tobacco Settlement Funds:

President Hack called the members attention to a press release*, which summarized the Governor's recommendations to the Kentucky General Assembly for the expenditure of the Phase I funds. He also handed out a packet entitled "CommonWealth Grows: A Strategic Plan for Rural Prosperity in the New Century"* which is a detailed breakdown of Governor Patton's vision for advancing Kentucky's agricultural economy. President Hack reviewed both plans for the committee. Especially notable to the board members is the \$30 million that Governor Patton proposes to be set aside to maintain the 1998 Phase II payout to farmers.

Kentucky Tobacco Settlement Trust Corporation Status Report:

President Hack distributed & reviewed the 1999 Statistical Report* of the distribution of the National Tobacco Growers Settlement Trust in Kentucky. The smallest payment

made by the Corporation, was for \$.08, the largest was \$20,225.08. The median payment was \$789.68.

It was suggested that it would be more administratively feasible to consider setting a minimum payment amount. Scott White advised that setting a minimum payment may be prohibited by the National Tobacco Growers Settlement Trust. He will check the contract and report back to the board. Mr. White asked President Hack to ask Chase for the percentage of checks \$10 and under that were not cashed. President Hack advised that statistics would be skewed at this point as Chase and the Governor's Agricultural Policy staff are in the process of cleaning up data on the payment register i.e., checks returned because of incorrect addresses, misspelled names, etc. This affects approximately 1% of the 253,000 checks issued.

There was a question raised as to how this money should be reported on income tax. President Hack advised that the IRS issued a statement saying that while the 1099 was dated 12/31/99, the funds were not actually made available for use until 2000, and therefore, taxes would not be paid on this income until 2000. He further stated that each individual's CPA should contact the IRS for any clarification or more information.

Another individual asked if this income is state tax exempt. Representative Thomas advised that there is pending legislation expected to pass the General Assembly that would exempt these funds from state income tax.

There was discussion about the possibility of opening a new application process for those individuals that either didn't return the application at all or completed it incorrectly. President Hack advised any such process would have to be approved by the board. He further advised that the money for payout is available from rollover funds but that Chase would charge a substantial administrative fee and the state would have additional administrative costs. This could pose a problem if there isn't enough money to pay applicants and administrative costs. It was suggested that the board charge a fee for processing these applications. Scott White advised that it might be illegal to charge the applicants.

There was a motion and a second to develop a system for those with incorrect applications or those that didn't submit applications to receive their payment. There was much discussion. Some suggested that any new application allow those individuals that bought quota after the rollover date to be paid for their quota. Mr. Lacy made the point that paying those that bought quota after the rollover date would cause significant problems as the quota owner portion had already been paid out to the '98 owners. The motion was restated, and passed.

Mr. White asked John-Mark Hack and Tommy Bale to work together to address the situation, and bring a proposal before the board at the next meeting.

New Business

Tobacco Loss Assistance Program – There was discussion on how to distribute the federal disaster funds. Many of the guests were farmers that had purchased quota after the rollover date. The guests made the point that those that had owned the quota in '98 had already been paid the Phase II funds and that the T-LAP money was designated specifically to compensate those that had taken the quota cuts. Those that owned the quota in '98 did not lose anything. There was much discussion.

A motion was made that any funds distributed by this board not go to non-quota owners and that funds follow quota, from this day forward. Point-of-order. This motion was laid on the table at the last meeting. There must be a motion to remove the motion from the table. Motion and second were made. The motion to remove the motion from the table passed. There was discussion on the original motion. A motion and second were made to table this motion. The motion passed.

PUBLIC HEARING

At this time the floor was opened for public comment. The following comments were made:

- 2000 Phase II funds should not be disbursed using '98 data. The year should be bumped up to 1999, but leave the formula the same.
- Move the rollover date to September 1.
- Pay the 2000 monies for the 2000 crop year. Hoppy Henton advised that the 2000 marketing information would not be in the system until after the marketing cards are issued. Phase II monies could not be paid until August.
- 2000 Phase II funds be paid on the '99 crop, but add an statement on the application "If you no longer own quota, you are not eligible for payment."
- Paying Phase II funds to the previous quota owner for quota that I now own has cost me thousands of dollars. Now I'll lose even more from the T-LAP.
- New formula for distribution of Phase II funds: 25% to quota owner; 25% to land owner; 50% to grower.
- Raise lease limit from 30 to 60.
- It's a fair plan. The formula should remain the same.
- Announce the distribution plan by February, for lending purposes. Board members answered this suggestion. The members are concerned that this would

drive up lease prices. By legal agreement the board is required to submit the plan to Chase by June 1. There is negotiation to change that date to July 2.

A consensus was reached among the board members that while they certainly understand the position of those that bought quota after the rollover date, it would be best to not delay the federal disaster funds. There was a motion and second to remove the Resolution from the table. The motion passed. The Resolution that was presented at the December meeting was read. There was a motion and second to adopt the Resolution. The motion passed.

The next meeting of the Board will be targeted for the week of April 17. Meeting notices will be sent.

Being no further business the meeting adjourned at Noon.

*All materials distributed at the meeting are on file in the KTSTC meeting folder in the Attorney General's Office.